

ATTORNEY DOCKET NO: 70231

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : FUCHS et al.
Serial No : 09/895,917
Confirm. No : 9518
Filed : June 29, 2001
For : PIVOTING MIRROR...
Art Unit : 2872
Examiner : SHAFER, Ricky D
Dated : November 30, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO REQUIREMENT UNDER 35 U.S.C. § 121

Applicant hereby elects the invention designated IV with claims 1, 9-12 and 16, drawn to a mirror assembly comprising a mirror foot, a mirror carrier, a first detent element, a first detent element, a first detent contour and a second detent contour with the combination claims 9-12 and 16, drawn to particular details (e.g., the first detent element having elastic/spring characteristics).

Applicant respectfully traverses the requirement and requests reconsideration. The restriction requirement is not proper as the restriction is not between a combination and a subcombination. The restriction requirement is also not between different subcombinations.

No different subcombinations are presented. In particular, the restriction requirement lists inventions I – VI . However, each of I – VI may be considered a different combination, with each requiring the particulars of the sub combination.

Each of claims 2 through 15 depend either directly or indirectly from claim 1. As such, each of claims 2 through 15 are directed to a combination which includes the particulars of the subcombination of claim 1. It should also be noted that claim 16 includes all of the particulars of claim 1. As such, claim 16 may be considered a combination claim that includes all of the particulars of the common subcombination (the particulars of claim 1). In this situation, claims 2 through 16 are different combinations all including the particulars of the same subcombination. No restriction is proper unless it can be demonstrated that the combinations involve patentably distinct inventions. In such case, a restriction requirement may be based on election of species (provided the species are patentably distinct) but there is no basis for restriction between subcombination and combination (because a subcombination and combination situation does not exist) and there is no basis for restriction between subcombinations. Plural subcombinations (e.g., Abbr/ABsp) are not presented and all of the combinations include the same subcombination.

Applicant respectfully requests consideration of all claims and additionally requests examination of all combination claims in view of the close relationship between the combination claims (they all include the same subcombination). Further, as a single search can be performed to consider all aspects of the invention and in view of the close relationship between the combination claims (they all include the same subcombination), consideration of

all claims is believed to be proper.

Respectfully submitted
for Applicant,



By: _____
John James McGlew
Registration No. 31,903
McGLEW AND TUTTLE, P.C.

- and -



By: _____
Brian M. Duncan
Registration No. 58,505
McGLEW AND TUTTLE, P.C.

JJM:BMD:pl
70231-17

DATED: November 30, 2006
BOX 9227 SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-9227
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-
0410.

